

**ASSEMBLY BILL**

**No. 1263**

**Introduced by Assembly Member Benoit**

February 21, 2003

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An act to amend Section 602 of the Penal Code, relating to trespass.

LEGISLATIVE COUNSEL'S DIGEST

AB 1263, as introduced, Benoit. Trespass.

Existing law makes it unlawful for persons to engage in certain acts of trespass. In particular, existing law makes it unlawful for a person to knowingly enter upon any airport operations area, as defined, if the area has been posted with notices restricting access, as provided. Existing law also makes it a crime to possess specified weapons, replica weapons, parts of weapons, and ammunition within a sterile area of an airport, as defined, to which access is controlled by screening of persons and property, except as provided.

This bill would make it a trespass to enter or reenter the sterile area of an airport without submitting to the screening and inspection of one's person and accessible property in accordance with the procedures being applied to control access to that area. That trespass would be punishable as a misdemeanor unless a violation is responsible in any part for delays or cancellations of scheduled flights, in which case it would be punishable as a misdemeanor or a felony.

By creating a new crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 602 of the Penal Code is amended to  
2 read:  
3 602. Except as provided in *paragraph (2) of subdivision (u)*  
4 *and in* Section 602.8, every person who willfully commits a  
5 trespass by any of the following acts is guilty of a misdemeanor:  
6 (a) Cutting down, destroying, or injuring any kind of wood or  
7 timber standing or growing upon the lands of another.  
8 (b) Carrying away any kind of wood or timber lying on those  
9 lands.  
10 (c) Maliciously injuring or severing from the freehold of  
11 another anything attached to it, or its produce.  
12 (d) Digging, taking, or carrying away from any lot situated  
13 within the limits of any incorporated city, without the license of the  
14 owner or legal occupant, any earth, soil, or stone.  
15 (e) Digging, taking, or carrying away from land in any city or  
16 town laid down on the map or plan of the city, or otherwise  
17 recognized or established as a street, alley, avenue, or park,  
18 without the license of the proper authorities, any earth, soil, or  
19 stone.  
20 (f) Maliciously tearing down, damaging, mutilating, or  
21 destroying any sign, signboard, or notice placed upon, or affixed  
22 to, any property belonging to the state, or to any city, county, city  
23 and county, town or village, or upon any property of any person,  
24 by the state or by an automobile association, which sign, signboard  
25 or notice is intended to indicate or designate a road, or a highway,  
26 or is intended to direct travelers from one point to another, or  
27 relates to fires, fire control, or any other matter involving the  
28 protection of the property, or putting up, affixing, fastening,  
29 printing, or painting upon any property belonging to the state, or  
30 to any city, county, town, or village, or dedicated to the public, or  
31 upon any property of any person, without license from the owner,  
32 any notice, advertisement, or designation of, or any name for any



1 commodity, whether for sale or otherwise, or any picture, sign, or  
2 device intended to call attention to it.

3 (g) Entering upon any lands owned by any other person  
4 whereon oysters or other shellfish are planted or growing; or  
5 injuring, gathering, or carrying away any oysters or other shellfish  
6 planted, growing, or on any of those lands, whether covered by  
7 water or not, without the license of the owner or legal occupant;  
8 or destroying or removing, or causing to be removed or destroyed,  
9 any stakes, marks, fences, or signs intended to designate the  
10 boundaries and limits of any of those lands.

11 (h) Willfully opening, tearing down, or otherwise destroying  
12 any fence on the enclosed land of another, or opening any gate, bar,  
13 or fence of another and willfully leaving it open without the  
14 written permission of the owner, or maliciously tearing down,  
15 mutilating, or destroying any sign, signboard, or other notice  
16 forbidding shooting on private property.

17 (i) Building fires upon any lands owned by another where signs  
18 forbidding trespass are displayed at intervals not greater than one  
19 mile along the exterior boundaries and at all roads and trails  
20 entering the lands, without first having obtained written  
21 permission from the owner of the lands or the owner's agent, or the  
22 person in lawful possession.

23 (j) Entering any lands, whether unenclosed or enclosed by  
24 fence, for the purpose of injuring any property or property rights  
25 or with the intention of interfering with, obstructing, or injuring  
26 any lawful business or occupation carried on by the owner of the  
27 land, the owner's agent or by the person in lawful possession.

28 (k) Entering any lands under cultivation or enclosed by fence,  
29 belonging to, or occupied by, another, or entering upon  
30 uncultivated or unenclosed lands where signs forbidding trespass  
31 are displayed at intervals not less than three to the mile along all  
32 exterior boundaries and at all roads and trails entering the lands  
33 without the written permission of the owner of the land, the  
34 owner's agent or of the person in lawful possession, and

35 (1) Refusing or failing to leave the lands immediately upon  
36 being requested by the owner of the land, the owner's agent or by  
37 the person in lawful possession to leave the lands, or

38 (2) Tearing down, mutilating, or destroying any sign,  
39 signboard, or notice forbidding trespass or hunting on the lands,  
40 or

1 (3) Removing, injuring, unlocking, or tampering with any lock  
2 on any gate on or leading into the lands, or

3 (4) Discharging any firearm.

4 (l) Entering and occupying real property or structures of any  
5 kind without the consent of the owner, the owner's agent, or the  
6 person in lawful possession.

7 (m) Driving any vehicle, as defined in Section 670 of the  
8 Vehicle Code, upon real property belonging to, or lawfully  
9 occupied by, another and known not to be open to the general  
10 public, without the consent of the owner, the owner's agent, or the  
11 person in lawful possession. This subdivision shall not apply to  
12 any person described in Section 22350 of the Business and  
13 Professions Code who is making a lawful service of process,  
14 provided that upon exiting the vehicle, the person proceeds  
15 immediately to attempt the service of process, and leaves  
16 immediately upon completing the service of process or upon the  
17 request of the owner, the owner's agent, or the person in lawful  
18 possession.

19 (n) Refusing or failing to leave land, real property, or structures  
20 belonging to or lawfully occupied by another and not open to the  
21 general public, upon being requested to leave by (1) a peace officer  
22 at the request of the owner, the owner's agent, or the person in  
23 lawful possession, and upon being informed by the peace officer  
24 that he or she is acting at the request of the owner, the owner's  
25 agent, or the person in lawful possession, or (2) the owner, the  
26 owner's agent, or the person in lawful possession. The owner, the  
27 owner's agent, or the person in lawful possession shall make a  
28 separate request to the peace officer on each occasion when the  
29 peace officer's assistance in dealing with a trespass is requested.  
30 However, a single request for a peace officer's assistance may be  
31 made to cover a limited period of time not to exceed 30 days and  
32 identified by specific dates, during which there is a fire hazard or  
33 the owner, owner's agent or person in lawful possession is absent  
34 from the premises or property. In addition, a single request for a  
35 peace officer's assistance may be made for a period not to exceed  
36 six months when the premises or property is closed to the public  
37 and posted as being closed. However, this subdivision shall not be  
38 applicable to persons engaged in lawful labor union activities  
39 which are permitted to be carried out on the property by the  
40 California Agricultural Labor Relations Act, Part 3.5

(commencing with Section 1140) of Division 2 of the Labor Code, or by the National Labor Relations Act. For purposes of this section, land, real property, or structures owned or operated by any housing authority for tenants as defined under Section 34213.5 of the Health and Safety Code constitutes property not open to the general public; however, this subdivision shall not apply to persons on the premises who are engaging in activities protected by the California or United States Constitution, or to persons who are on the premises at the request of a resident or management and who are not loitering or otherwise suspected of violating or actually violating any law or ordinance.

(o) Entering upon any lands declared closed to entry as provided in Section 4256 of the Public Resources Code, if the closed areas shall have been posted with notices declaring the closure, at intervals not greater than one mile along the exterior boundaries or along roads and trails passing through the lands.

(p) Refusing or failing to leave a public building of a public agency during those hours of the day or night when the building is regularly closed to the public upon being requested to do so by a regularly employed guard, watchman, or custodian of the public agency owning or maintaining the building or property, if the surrounding circumstances would indicate to a reasonable person that the person has no apparent lawful business to pursue.

(q) Knowingly skiing in an area or on a ski trail which is closed to the public and which has signs posted indicating the closure.

(r) Refusing or failing to leave a hotel or motel, where he or she has obtained accommodations and has refused to pay for those accommodations, upon request of the proprietor or manager, and the occupancy is exempt, pursuant to subdivision (b) of Section 1940 of the Civil Code, from Chapter 2 (commencing with Section 1940) of Title 5 of Part 4 of Division 3 of the Civil Code. For purposes of this subdivision, occupancy at a hotel or motel for a continuous period of 30 days or less shall, in the absence of a written agreement to the contrary, or other written evidence of a periodic tenancy of indefinite duration, be exempt from Chapter 2 (commencing with Section 1940) of Title 5 of Part 4 of Division 3 of the Civil Code.

(s) Entering upon private property, including contiguous land, real property, or structures thereon belonging to the same owner, whether or not generally open to the public, after having been

1 informed by a peace officer at the request of the owner, the owner's  
2 agent, or the person in lawful possession, and upon being informed  
3 by the peace officer that he or she is acting at the request of the  
4 owner, the owner's agent, or the person in lawful possession, that  
5 the property is not open to the particular person; or refusing or  
6 failing to leave the property upon being asked to leave the property  
7 in the manner provided in this subdivision.

8 This subdivision shall apply only to a person who has been  
9 convicted of a violent felony, as specified in subdivision (c) of  
10 Section 667.5, committed upon the particular private property. A  
11 single notification or request to the person as set forth above shall  
12 be valid and enforceable under this subdivision unless and until  
13 rescinded by the owner, the owner's agent, or the person in lawful  
14 possession of the property.

15 (t) (1) Knowingly entering, by an unauthorized person, upon  
16 any airport operations area if the area has been posted with notices  
17 restricting access to authorized personnel only and the postings  
18 occur not greater than every 150 feet along the exterior boundary.

19 (2) Any person convicted of a violation of paragraph (1) shall  
20 be punished as follows:

21 (A) By a fine not exceeding one hundred dollars (\$100).

22 (B) By imprisonment in the county jail not exceeding six  
23 months, or by a fine not exceeding one thousand dollars (\$1,000),  
24 or both, if the person refuses to leave the airport operations area  
25 after being requested to leave by a peace officer or authorized  
26 personnel.

27 (C) By imprisonment in the county jail not exceeding six  
28 months, or by a fine not exceeding one thousand dollars (\$1,000),  
29 or both, for a second or subsequent offense.

30 (3) As used in this subdivision the following definitions shall  
31 control:

32 (A) "Airport operations area" means that part of the airport  
33 used by aircraft for landing, taking off, surface maneuvering,  
34 loading and unloading, refueling, parking, or maintenance, where  
35 aircraft support vehicles and facilities exist, and which is not for  
36 public use or public vehicular traffic.

37 (B) "Authorized personnel" means any person who has a valid  
38 airport identification card issued by the airport operator or has a  
39 valid airline identification card recognized by the airport operator,  
40 or any person not in possession of an airport or airline

1 identification card who is being escorted for legitimate purposes  
2 by a person with an airport or airline identification card.

3 (C) “Airport” means any facility whose function is to support  
4 commercial aviation.

5 (u) (1) *Except as permitted by federal law, entering or*  
6 *reentering a sterile area of an airport, as defined in Section 171.5,*  
7 *without submitting to the screening and inspection of one’s person*  
8 *and accessible property in accordance with the procedures being*  
9 *applied to control access to that area.*

10 (2) *A violation of this subdivision that is responsible in any part*  
11 *for delays or cancellations of scheduled flights is punishable by*  
12 *imprisonment in the state prison or in a county jail.*

13 (v) Refusing or failing to leave a battered women’s shelter at  
14 any time after being requested to leave by a managing authority of  
15 the shelter.

16 (1) A person who is convicted of violating this subdivision  
17 shall be punished by imprisonment in a county jail for not more  
18 than one year.

19 (2) The court may order a defendant who is convicted of  
20 violating this subdivision to make restitution to a battered woman  
21 in an amount equal to the relocation expenses of the battered  
22 woman and her children if those expenses are incurred as a result  
23 of trespass by the defendant at a battered women’s shelter.

24 SEC. 2. No reimbursement is required by this act pursuant to  
25 Section 6 of Article XIII B of the California Constitution because  
26 the only costs that may be incurred by a local agency or school  
27 district will be incurred because this act creates a new crime or  
28 infraction, eliminates a crime or infraction, or changes the penalty  
29 for a crime or infraction, within the meaning of Section 17556 of  
30 the Government Code, or changes the definition of a crime within  
31 the meaning of Section 6 of Article XIII B of the California  
32 Constitution.